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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte NEAL JACOB MANOWITZ and JOHN TREE

Appeal 2010-002999
Application 09/782,067
Technology Center 2600

Before ROBERT E. NAPPI, KENNETH W. HAIRSTON, and BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

This is a decision on appeal under 35 U.S.C. § 134(a) of the rejection of claims 1 through 21.

We affirm.

INVENTION

The invention is directed to a digital camera system where the digital camera is configured to connect to a predetermined location to upload image data and download advertising data. See page 2 of Appellants' Specification. Claim 1 is representative of the invention and reproduced below:

1. A system for transmitting image data comprising:
a remote storage device for receiving image data; and
a digital camera configured to send the image data exclusively to the remote storage device and to receive advertising data exclusively from the remote storage device, said digital camera being physically incapable of communicating, either directly or indirectly, with any external device other than said exclusive and remote location.

REFERENCES

Steinberg	US 2002/041329 A1	Apr. 11, 2002
Squilla	US 6,396,537 B1	May 28, 2002
Krishan	US 6,442,529 B1	Aug. 27, 2002

REJECTIONS AT ISSUE

The Examiner has rejected claims 1 through 21 under 35 U.S.C. § 103(a) as being unpatentable over Steinberg in view of Squilla and Krishan. Answer² 4 through 22.

ISSUES

Claims 1 through 4

Appellants' contentions on pages 4 through 8 of the Appeal Brief³ present us with the issue: did the Examiner err in finding that the combination of Steinberg in view of Squilla and Krishan teaches a digital camera being physically incapable of communicating either directly or indirectly with any external device other than said exclusive and remote location as recited in claim 1.

Claims 5 through 8, 12, 17, and 18

Appellants' contentions on pages 8 through 11 of the Appeal Brief present us with the same issue as claim 1.

Claim 13

Appellants' contentions on pages 11 and 12 of the Appeal Brief present us with the issue: did the Examiner err in finding that the combination of Steinberg in view of Squilla and Krishan teaches that the digital device prevents a user from disabling the display of advertisements?

² Throughout this decision we refer to the Examiner's Answer dated October 5, 2009.

³ Throughout this decision we refer to the Appeal Brief dated June 12, 2009.

Claim 14

Appellants' contentions on page 12 of the Appeal Brief present us with the issue: did the Examiner err in finding that the combination of Steinberg in view of Squilla and Krishan teaches a distributor of a digital camera as claimed?

Claim 15

Appellants' contentions on pages 12 and 13 of the Appeal Brief present us with the issue: did the Examiner err in finding that the combination of Steinberg in view of Squilla and Krishan teaches a combined upload and download request as claimed?

Claim 16

Appellants' contentions on page 13 of the Appeal Brief present us with the issue: did the Examiner err in finding that Krishan teaches sending requests at predetermined regular intervals as claimed?

Claim 19

Appellants' contentions on pages 13 and 14 of the Appeal Brief present us with the issue: did the Examiner err in finding that the combination of Steinberg in view of Squilla and Krishan teaches that downloading of the advertisement data is triggered by the uploading of the image data?

Claim 20

Appellants' contentions on page 14 of the Appeal Brief present us with the issue: did the Examiner err in finding that the combination of Steinberg in view of Squilla and Krishan teaches that the advertiser compensates both said exclusive and remote location and a distributor for downloading said advertising?

Claim 21

Appellants' contentions on page 14 of the Appeal Brief present us with the issue: did the Examiner err in finding that the combination of Steinberg in view of Squilla and Krishan teaches that the camera obtains image data back in a reverse transfer operation after the uploading has occurred?

Claims 9 through 11

Appellants' contentions on pages 15 through 18 of the Appeal Brief present us with the same issue as claim 1.

ANALYSIS

Claims 1 through 4

Appellants' arguments have not persuaded us of error in the Examiner's finding that the combination of Steinberg in view of Squilla and Krishan teaches a digital camera being physically incapable of communicating either directly or indirectly with any external device other than said exclusive and remote location as recited in claim 1. The Examiner's rejection relies upon Krishan to teach an electronic device that is incapable of communicating with an external device other than the exclusive location. Answer 7, 22 through 26. Appellants argue that Krishan's device communicates with various locations such as a validation server, advertisement server, content server, and a statistics server. Brief 7 and 8. As such, Appellants argue that Krishan's device does not meet the claim. Answer 8. The Examiner's response on 27 through 30 provides a detailed response to this argument. We concur with the findings and rationale set forth by the Examiner on pages 27 through 30 of the Answer. In this

response, the Examiner identifies that the mini-portal of Krishan is only capable of communicating to the Internet through the ISP (item 52) and is therefore incapable of communicating with any external device but the exclusive location. Answer 28. The Examiner states that while the mini-portal may communicate with other servers, this communication is through the ISP. Answer 28. Thus, Appellants' arguments have not persuaded us of error in the Examiner's rejection of claim 1.

We further note that with respect to this rejection, the Appellants state on page 7 of the Brief that "Squilla only tangentially mentions capturing image data, and transferring the image data does not trigger downloads of the content information to the camera, as disclosed and claimed by Applicants." Br. 7. We are not persuaded by this argument. As identified by the Examiner on page 25 of the Answer, claim 1 does not recite that transferring of images triggers the downloading of advertising data. Accordingly, this argument is not commensurate in scope with claim 1. Thus, as Appellants' arguments directed to claim 1 have not persuaded us of error in the Examiner's rejection, we will sustain the Examiner's rejection of claims 1 through 4.

Claims 5 through 8, 12, 17, and 18

Appellants' arguments on pages 8 through 11 of the Brief, repeat the same arguments presented with respect to claims 1 through 4. As discussed above with respect to claim 1, Appellants' arguments have not persuaded us of error in the rejection of claim 1. Accordingly, we sustain the Examiner's rejection of claims 5 through 8, 12, 17, and 18 for the reasons discussed with respect to claim 1.

Claim 13

Appellants' arguments have not persuaded us that the Examiner erred in finding that the combination of the references teaches the device prevents a user from disabling the display of advertisements. The Examiner finds that Krishan teaches this limitation of claim 13 in that the portal provider pushes advertisements to the mini-portal and that the portal provider prevents the user from disabling the display of advertisements. Answer 37. We concur with the Examiner's finding. We note that Krishan teaches several embodiments. While the teachings of Krishan cited by Appellants appear to support Appellants' contention that the user can disable the displaying of advertisements, the teaching in column 8, lines 61-63, which is cited by the Examiner and not addressed by Appellants, supports the finding that the user cannot disable the displaying of advertisements. Thus, we sustain the Examiner's rejection of claim 13.

Claim 14

Appellants' arguments have not persuaded us that the Examiner erred in finding that the combination of Steinberg in view of Squilla and Krishan teaches a distributor of a digital camera as claimed. Appellants argue that Krishan teaches a mini-portal and portal provider but does not disclose a distributor of a digital camera. On pages 38 through 40 of the Answer, the Examiner provides findings and rationale of how the combination of the references suggests this limitation. We concur with the Examiner's findings and rationale. We note that Appellants' arguments are not persuasive of error as they do not address these findings and rationale by the Examiner. Accordingly, we sustain the Examiner's rejection of claim 14.

Claim 15

Appellants' arguments have not persuaded us that the Examiner erred in finding that the combination of the references teaches a combined upload and download request. On pages 20, 39, and 40 of the Answer, the Examiner provides findings and rationale describing how the combination of the references suggests this limitation. As Appellants' arguments do not address these findings by the Examiner, Appellants have not persuaded us of error in the Examiner's rejection. Accordingly, we sustain the Examiner's rejection of claim 15.

Claim 16

Appellants' arguments have not persuaded us that the Examiner erred in finding that Krishan teaches sending a request at predetermined regular intervals as claimed. Appellants' arguments assert that Krishan teaches sending a request periodically and not at predetermined regular intervals as claimed. We are not persuaded of error by Appellants' arguments. The Examiner has found on page 41 of the Answer that Krishan teaches that the requests are sent periodically and at regular intervals. There is ample evidence to support this finding by the Examiner. Further, we note that Appellants' assertion on page 13 of the Brief that these requests could occur at intervals that are neither predetermined nor regular is speculative as Appellants have not identified a passage in Krishan which supports the assertion. Accordingly, Appellants' arguments have not persuaded us of error in the Examiner's rejection of claim 16 and we sustain this rejection.

Claim 19

Appellants' arguments have not persuaded us that the Examiner erred in finding that the combination of the references teaches that downloading of

the advertisement data is triggered by the uploading of the image data. On pages 21, 41, and 42 of the Answer, the Examiner provides findings and rationale describing how the combination of the references suggests this limitation. As Appellants' arguments do not address these findings by the Examiner, Appellants' have not persuaded us of error in the Examiner's rejection. Accordingly, we sustain the Examiner's rejection of claim 19.

Claim 20

Appellants' arguments have not persuaded us that the Examiner erred in finding that the combination of the references teaches that the advertiser compensates both said exclusive and remote location and a distributor for downloading said advertising. On pages 21, 22, 42, and 43 of the Answer, the Examiner provides findings and rationale describing how the combination of the references suggests this limitation. As Appellants' arguments do not address these findings by the Examiner, Appellants have not persuaded us of error in the Examiner's rejection. Accordingly, we sustain the Examiner's rejection of claim 20.

Claim 21

Appellants' arguments have not persuaded us that the Examiner erred in finding that the combination of the references teaches that the camera obtains image data back in a reverse transfer operation after the uploading has occurred. On pages 22, and 43 through 46 of the Answer, the Examiner provides findings and rationale describing how the combination of the references suggests this limitation. As Appellants' arguments do not address these findings by the Examiner, Appellants have not persuaded us of error in the Examiner's rejection. Accordingly, we sustain the Examiner's rejection of claim 21.

Claims 9 through 11

Appellants' arguments on pages 15 through 18 of the Brief repeat the same arguments presented with respect to claims 1 through 4. As discussed above with respect to claim 1, Appellants' arguments have not persuaded us of error in the rejection of claim 1. Accordingly, we sustain the Examiner's rejection of claims 9 through 11 for the reasons discussed with respect to claim 1.

CONCLUSION

We will sustain the Examiner's rejections of claims 1 through 26 under 35 U.S.C. § 103(a).

ORDER

The decision of the Examiner to reject claims 1 through 26 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2010-002999
Application 09/782,067

AFFIRMED

ELD

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